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concern. The tendency has become marked in much of our journalism to treat the freedom of the press as meaning an almost unlimited license. To uphold by force of law the very tendencies which are to-day, more than any other, leading to disregard and contempt for newspaper statement and criticism, must further the decline in the press of its power to lead and guide public opinion. A precedent whose undeniable effect must be to cheapen the standards of a press already none too high and thereby of the ever increasing public which reads that press, by giving the right to so cheapen it, cannot but be regarded as, in that respect at least, unfortunate.

#### STARE DECISIS AND SPECIAL LEGISLATION IN OHIO.

The Supreme Court of the State of Ohio, which by its recent decisions caused an upheaval in the laws of the state and necessitated a special session of the legislature to enact legislation to meet the emergency, has very emphatically repudiated the doctrine of *stare decisis* in the case of *State v. Yates*, 64 N. E. 570. Justice Davis in his opinion utters this very trenchant language: "We do not feel bound by previous decisions of this court when they do not commend themselves to us by essential soundness; and this is especially so when constitutional limitations are involved. No amount of wrong adjudication can justify a practical abrogation of the constitution." And in closing he deals this blow to the past decisions of the court: "We are satisfied at all events that the loose construction of the constitution in which this court has indulged is, in part, responsible for the abnormal condition of things shown above, and we feel disposed to distinctly and finally repudiate it now." The legislature which had passed numerous special salary bills declared by the court to be unconstitutional, is left with the problem to work out as to what special or local legislation is constitutional. *State v. Yates* overrules a long line of decisions from *Cricket v. State*, 18 Ohio St. 9, to *Pearson v. Stephens*, 56 Ohio St. 126, 46 N. E. 511. The completeness of the change in policy in the Supreme Court on the subject of special legislation has caused a condition of affairs well worth the study and attention of the legislators of other states, where haphazard and ill-considered laws are annually placed on the statute books. In *Cincinnati v. Trustees*, 64 N. E. 420, the court has rendered void an act of the legislature conferring special corporate powers upon the City of Cincinnati for the building of a hospital, as repugnant to the clause of the constitution forbidding the legislature from passing any special act conferring corporate powers. In *State v. Jones*, 64 N. E. 424, and *State v. Beacom*, 64 N. E. 427, the court practically reversing its settled policy of the last fifty years, declares that acts designed to confer powers on single cities by their classification and division of classes into grades, are ineffectual to designate classified recipients of corporate power and repugnant to the above clause of the constitution. The case of

*State v. Jones* is interesting as vitiating the special legislation enacted by the party in power, designed especially to curtail the power of "Golden Rule" Jones, mayor of Toledo, and to prevent him from carrying out his ideas of municipal reform.

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DIVISION OF SURPLUS ACCUMULATIONS AS BETWEEN THE LIFE  
BENEFICIARY AND THE REMAINDER-MAN.

The right to dividends as between the life-tenant and the remainder-man is a subject on which the authorities are in irreconcilable conflict. This question arises most frequently under wills. As to whether cash and stock dividends, declared after the death of the testator, belong to income or should go to swell the corpus of the estate, there are in this country two widely diverging lines of decision, known respectively as the Massachusetts rule and the Pennsylvania or American rule, one of which most of the courts have adopted in whole or in part.

According to the Massachusetts doctrine, every cash dividend goes to the life-tenant, and every stock dividend belongs to the remainder-man, if accumulated from the earnings of the company, irrespective of whether such accumulation was made before or after the testator's death. This rule, so far as it applies to cash dividends, prevails in England, Maine, New York, Kentucky and Georgia; as applied to stock dividends, it prevails in England, Connecticut and Rhode Island, and it has been adopted by the United States Supreme Court. The Massachusetts doctrine seems to be a rule of convenience, easy and simple of application, but its justice and fairness may seem to be open to question. The leading Massachusetts case is *Minot v. Paine*, 99 Mass. 101; authorities in conformity with this decision are *Davis v. Jackson*, 152 Mass. 58; *Richardson v. Richardson*, 75 Me. 570; *Bouch v. Sproule*, L. R. 12 App. 385; *Brinley v. Grou*, 50 Conn. 66; *Gibbons v. Mahon*, 136 U. S. 549.

The Pennsylvania rule is that dividends of earnings made before the testator's death belong to the corpus of the estate, but that dividends earned since testator's death are income and go to the life-tenant, no matter whether such dividends be in cash, or scrip, or stock. The leading authority is *Earp's Appeal*, 28 Pa. St. 368; see also *Moss' Appeal*, 83 Pa. St. 264; *Smith's Estate*, 140 Pa. St. 340; *Van Doren v. Olden*, 19 N. J. Eq. 176; *Simpson v. Moore*, 30 Barb. 637; *Hite v. Hite*, 93 Ky. 264.

In view of the conflict over this subject a recent Mississippi case is of much interest by reason of facts, which present a new phase of the question. *Simpson v. Millsaps*, 31 So. 912. In that case the will directed that the income of the corpus of the estate be paid to certain beneficiaries for life. After testator's death the corporation, in which testator owned stock, withheld part of its earnings, which it set aside as a surplus fund; by so doing the value of its stock was increased. The trustees for the life beneficiaries sold this stock at